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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,312	03/11/2008	Sergei O. Bachurin	559592000200	3998
25226 7590 02/19/2010 MORRISON & FOERSTER LLP 755 PAGE MILL RD PALO ALTO, CA 94304-1018				
EXAMINER				
CORNET, JEAN P				
ART UNIT		PAPER NUMBER		
1628				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,312

Applicant(s)

BACHURIN ET AL.

Examiner

JEAN CORNET

Art Unit

1628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/08/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 19-77, 95, 113-120 and 122-137 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1, 19-77, 95, 113-120, 122-137 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 2-18, 78-94, 96-112 and 121 are canceled by Applicant.

REQUIREMENT FOR UNITY OF INVENTION

1. As provided in 37 CFR 1.475(a), a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in a national stage application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim. See 37 CFR 1.475(e).

When Claims Are Directed to Multiple Categories of Inventions:

As provided in 37 CFR 1.475(b), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

- (1) A product and a process specially adapted for the manufacture of said product; or
- (2) A product and process of use of said product; or
- (3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or
- (4) A process and an apparatus or means specifically designed for carrying out the said process; or
- (5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

Otherwise, unity of invention might not be present. See 37 CFR 1.475(c).

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, drawn to a method of slowing aging in a mammal comprising administering to the mammal an amount of hydrogenated pyrido (4,3-b) indole or pharmaceutically acceptable salt thereof effective to slow aging.

Group II, claim(s) 19-36, drawn to a method of slowing the progression of age associated with hair loss in a mammal comprising administering to the mammal an amount of a hydrogenated pyrido (4,3-b) indole or pharmaceutically acceptable salt thereof effective to slow the progression of age associated with hair loss.

Group III, claim(s) 37-54, drawn to method of slowing the progression of age associated with weight loss in a mammal comprising administering to the mammal an amount of a hydrogenated pyrido (4,3-b) indole or pharmaceutically acceptable salt thereof effective to slow the progression of age associated with weight loss.

Group IV, claim(s) 55-76, drawn to method of slowing the progression of age associated with vision disturbance in a mammal comprising administering to the mammal an amount of a hydrogenated pyrido (4,3-b) indole or pharmaceutically acceptable salt thereof effective to slow the onset of an age associated with vision disturbance.

Group V, claim(s) 77, drawn to method of improving quality of life of a mammal comprising administering to the mammal an amount of a hydrogenated pyrido (4,3-b) indole or pharmaceutically acceptable salt thereof effective to improve the quality of life of the mammal..

Group VI, claim(s) 95 and 113-120, 122-132, drawn to method of prolonging or extending the lifespan of a mammal or a cell in a mammal comprising administering to the mammal an amount of a hydrogenated pyrido (4,3-b) indole or pharmaceutically acceptable salt thereof effective to extend/prolong the lifespan of a cell in the mammal

Note: claim 122 depends from the canceled 121. Examiner believes the dependency of claim 122 is from claim 113.

Group VII, claim(s) 133-136, drawn to sustained release formulation or device comprising a compound of the formula (A) or (B).

Group VIII, claim(s) 137, drawn to a Kit comprising a compound of the formula (A) or (B).

2. Group I-VIII lack unity of invention because even though the inventions of these groups require the technical feature of a compound of the general formula (I), this technical feature is not a special technical feature as it does not make a contribution over the prior art in view of Gilmore et al. US 5,563,147 cited in the IDS. Since Gilmore et al disclose 8-fluoro-2,3,4,5-tetrahydro-1-H-pyrido[4,3-b]indole (col.13, lines 37-51), for the treatment of aging (col. 6, line 41). The hydrogenated pyrido (4, 3-b) indole taught by Gilmore is the same as the core structured required by the instant claim. Since the core structure anticipated by Gilmore, then the reference anticipates the technical

feature, and it lacks novelty. Therefore the technical feature linking the inventions of Groups I-VIII does not constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art.

Therefore, the technical feature linking the inventions of Groups I-VIII does not constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art. Accordingly, Groups I-VIII are not so linked by the same or corresponding special technical feature as to form a single inventive concept.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Hydrogenated pyrido (4,3-b) indole compounds.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. The claims are deemed to correspond to the species listed above in the following manner:

For any of Groups I-VII or VIII, Applicant is required to elect a single disclosed Hydrogenated pyrido (4,3-b) indole compound, claims 25, 26, 29, 43, or 44 or 135-137. Applicant is also required to provide the chemical name and structure of the elected compound.

The following claim(s) are generic: All claims are generic.

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: As set forth above, the Hydrogenated pyrido (4,3-b) indole compound has been taught in the prior art; therefore, the technical feature linking the species lacks novelty. The technical feature does not comprise a special technical feature and no single inventive concept links the species.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result**

in a loss of the right to rejoinder. Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN CORNET whose telephone number is (571)270-7669. The examiner can normally be reached on Monday-Thursday 7.00am-5.30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thomas can be reached on 571-272-8994. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JC/

/Timothy P Thomas/
Examiner, Art Unit 1628